

REMARKS

The Final Office Action mailed March 20, 2009 has been given careful consideration by the applicants. Claims 1, and 3-15 remain in the application.

Reexamination and reconsideration of the application is respectfully requested in view of the comments and amendments herein.

The Office Action

The Examiner rejected claim 1 under 35 U.S.C. §102(e) as being anticipated by McCalmont et al. (U.S. 6,771,742).

The Examiner rejected claims 2-15 under 35 U.S.C. §103(a) as being obvious over McCalmont.

I. The Finality of the Office Action Dated March 20, 2009 is Premature

The amendments made to the claims in Amendment A, responsive to the Office Action dated October 8, 2008, were made to address the 112 rejection raised by the Examiner in that Office Action. As stated by the Examiner at page 8 of the Final Office Action dated March 20, 2009, the claim amendments of Amendment A emphasize the formality of claim format, and thus did not introduce subject matter that would cause the Examiner to have to raise new grounds of rejection. Therefore, at least one claim was not amended in a manner that would necessitate a new ground of rejection in the reply to the Office Action dated October 31, 2007.

In the Office Action dated October 8, 2008, the Examiner rejected claims 1, 3, 7, 9-10, and 12-14 under §102(e) as being anticipated by McCalmont. Claim 1 was further rejected under 102(e) as being anticipated by Leung. Claims 2, 4-6, 8, and 11 were rejected under 103(a) as being unpatentable over McCalmont. In the present Office Action, the Examiner has introduced new grounds of rejection that were not necessitated by applicant's amendment to the claims. Specifically, claim 1 is now rejected only under 102(e) as being anticipated by McCalmont, and claims 2-15 are rejected under 103(a) as being unpatentable over McCalmont.

Thus, the Examiner has introduced new grounds of rejection for dependent

claims 3, 7, 9, 10, and 12-14, which were not necessitated by applicant's amendment to the claims in the reply to the Office Action dated October 8, 2008. MPEP 706.07(a), second paragraph, states in part:

"Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p)." (Emphasis added.)

Since original claims 3, 7, 9, 10, and 12-14 were already searched by the examiner, and the new ground of rejection introduced by the Examiner was *not* necessitated by applicants' amendment of the claims as required by MPEP 706.07(a), the finality of the Office Action dated March 20, 2009 is premature.

A Petition to withdraw the finality of the present Office Action is submitted herewith.

II. Rejection of Claim 1 Under 35 U.S.C. §102(e)

Claim 1 stands rejected under 35 U.S.C. §102(e) as being anticipated by McCalmont *et al.* It is respectfully requested that this rejection be withdrawn for at least the following reasons. The cited reference fails to disclose or suggest the claimed subject matter.

Claim 1 has been amended herein to recite that the signaling message is a text message. This aspect was previously set forth in dependent claim 2. The Examiner rejects claim 2 as being unpatentable over McCalmont, citing column 16, lines 33-34, which state that additional caller information is may include information that is delivered visually to a public safety answering point operator. The Examiner then contends that the visual information therefore is a text message. However, the visual information of McCalmont is not further described. Furthermore, nowhere in McCalmont is there mention of a text message, let alone a text message that is a signaling message. McCalmont was filed in 2002, when text messaging was already a prevalent means of

communication. Therefore it seems likely that if McCalmont contemplated using a text message as a signaling message, such would be clearly stated in the McCalmont patent. Absent such description, it is clear that McCalmont's visual information is not a text message.

Furthermore, as stated in the previous Amendment, the subject claims relate to setting up an emergency call by sending call center location data in a network. Data processing within a terminal can be mitigated, saving processing resources. To this end, independent claim 1 recites that ***the unambiguous call identifier is generated in a network node receiving the signaling message*** and that ***the unambiguous call identifier is integrated into the signaling message***. In addition, independent claim 1 recites that *a location message is generated and the unambiguous call identifier is integrated into the location message*. McCalmont *et al.* fails to disclose or suggest the claimed subject matter.

McCalmont *et al.* relates to automatic routing of a request for emergency services to the correct answering point, by providing an emergency services complex boundaries for a given answering point. The Examiner contends that, at col. 5, ll. 20-27, McCalmont *et al.* discloses the claimed subject matter. Applicants aver to the contrary.

The cited passage appears to disclose querying the ALI database with an emergency services query key (ESQK) to retrieve location information. No integration is performed by the ALI database. Furthermore, the cited reference does not disclose that the ESQK is generated in a network node, nor does the cited reference disclose that the ESQK is integrated into the signaling message. Accordingly, the cited portion of the reference fails to disclose or suggest that ***the unambiguous call identifier is generated in a network node receiving the signaling message*** and that ***the unambiguous call identifier is integrated into the signaling message***, or that *a location message is generated and the unambiguous call identifier is integrated into the location message*, as claimed.

In view of the foregoing, it is readily apparent that the cited portions of McCalmont fail to disclose or suggest the claimed subject matter. Accordingly, it is respectfully requested that this rejection with respect to independent claim 1 (and associated dependent claims 3-14) be withdrawn.

III. Rejection of Claims 2-15 Under 35 U.S.C. §103(a)

Claims 2-15 have been rejected under 35 U.S.C. §103(a) as being obvious over McCalmont *et al.* It is respectfully requested that this rejection be withdrawn for at least the following reasons. Claim 2 has been cancelled herein. Claims 3-14 depend from independent claim 1, and as noted *supra*, McCalmont *et al.* fails to disclose or suggest each and every element of independent claim 1. Thus, the subject claims are not obvious in view of McCalmont *et al.*

Claim 15 has been amended herein to recite that the signaling message is a text message. Support for this amendment can be found, for example, in the specification at paragraph [0018]. As discussed above with regard to claim 1, McCalmont fails to teach or suggest this aspect of independent claim 15. Moreover, it is respectfully submitted that this amendment should be entered due to the premature finality of the present Office Action.

In view of the foregoing, it is readily apparent that McCalmont fails to make obvious independent claims 1 and 15, and claims 3-14 dependent therefrom. Accordingly, it is respectfully requested that this rejection be withdrawn.

CONCLUSION

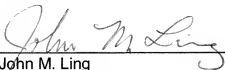
For the reasons detailed above, it is respectfully submitted that all the claims remaining in the application are now in condition for allowance. The foregoing comments do not require unnecessary additional search or examination.

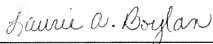
In the event the Examiner considers personal contact advantageous to the disposition of this case, he/she is hereby authorized to telephone the below signed, at (216) 363-9000.

Respectfully submitted,

FAY SHARPE LLP

5/15/09
Date


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| Date: <u>May 15, 2009</u> | Name: Laurie A. Boylan |